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IDAHO LEGISLATURE

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SIXTIETH LEGISLATURE

**FORTY-THIRD LEGISLATIVE DAY
MONDAY, FEBRUARY 22, 2010**

Senate Chamber

President Little called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Cameron, Coiner, Darrington, LeFavour, and Stegner, absent and excused.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Rachel Anderson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 19, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senator Darrington was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Stegner was recorded present at this order of business.

SCR 120

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES GOVERNING PLUMBING SAFETY LICENSING.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Building Safety relating to Rules Governing Plumbing Safety Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.02.05, Rules Governing Plumbing Safety Licensing, Rules of the Division of Building Safety, adopted as a pending rule under Docket Number 07-0205-0901, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 121

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE TRANSPORTATION DEPARTMENT RELATING TO RULES GOVERNING LICENSE PLATE PROVISIONS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Transportation Department relating to Rules Governing License Plate Provisions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 39.02.60, Rules Governing License Plate Provisions, Section 204, relating to Permanent Commercial Trailer - Business Logo Plates Provisions, only, Rules of the Transportation Department, adopted as a pending rule under Docket Number 39-0260-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

[SCR 120](#) and [SCR 121](#) were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator LeFavour was recorded present at this order of business.

February 19, 2010

The JUDICIARY AND RULES Committee reports that [S 1302](#) and [S 1307](#) have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled [S 1302](#) and [S 1307](#) and ordered them transmitted to the House for the signature of the Speaker.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 19, 2010

Dear Mr. President:

I transmit herewith [H 416](#) and [H 417](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 416](#) and [H 417](#) were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that [SCR 119](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator LeFavour, seconded by Senator Fulcher, [SCR 119](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The President announced that [SJM 104](#) was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Brackett, seconded by Senator Bock, [SJM 104](#) was adopted by voice vote, title was approved, and the memorial ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

Senator Coiner was recorded present at this order of business.

S 1375

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE THAT A LATE RENEWAL PENALTY FOR A LICENSE TO CARRY A CONCEALED WEAPON SHALL NOT APPLY TO CERTAIN LICENSEES SERVING IN THE ARMED FORCES OF THE UNITED STATES AND TO MAKE A TECHNICAL CORRECTION.

S 1376

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE COMMISSION ON REAPPORTIONMENT; AMENDING SECTION 72-1504, IDAHO CODE, TO REVISE THE COMPENSATION OF MEMBERS OF THE REAPPORTIONMENT COMMISSION.

S 1377

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PROCEEDINGS BEFORE THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-622, IDAHO CODE, TO REVISE THE PUBLIC UTILITIES COMMISSION'S AUTHORITY REGARDING RATE, FARE, TOLL, RENTAL, CHARGE, CLASSIFICATION, CONTRACT, PRACTICE, RULE, SERVICE OR REGULATION, TO REVISE PROCEDURES AND TO MAKE A TECHNICAL CORRECTION; AND REPEALING SECTION 61-623, IDAHO CODE, RELATING TO DETERMINATION OF SCHEDULE AND REGULAR RATES BY THE PUBLIC UTILITIES COMMISSION.

S 1378

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC WRITINGS; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE A PUBLIC RECORDS EXEMPTION, TO PROVIDE A PUBLIC RECORDS EXEMPTION AND TO PROVIDE EXCEPTIONS; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 58, TITLE 19, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE DISCLOSURE OF THE RESIDENTIAL STREET AND TELEPHONE NUMBER OF CERTAIN PERSONS IS PROHIBITED, TO PROVIDE EXCEPTIONS, TO PROVIDE A PROCESS FOR REQUESTING ADDRESS CONFIDENTIALITY AND ELIGIBILITY AND TO PROVIDE IMMUNITY FROM LIABILITY; AMENDING SECTION 49-306, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENTS OF A DRIVER'S LICENSE AND INSTRUCTION PERMIT; AMENDING SECTION 49-315, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A DRIVER'S LICENSE; AMENDING SECTION 49-401B, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A CERTIFICATE OF REGISTRATION; AMENDING SECTION 49-504, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A CERTIFICATE OF TITLE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-2444, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF AN IDENTIFICATION CARD; AND PROVIDING AN EFFECTIVE DATE.

S 1379

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1307, IDAHO CODE, TO PROVIDE THAT LICENSED WINERIES SHALL NOT BE REQUIRED TO POSSESS A RETAIL BEER LICENSE AS A PREREQUISITE TO A SEPARATE RETAIL WINE LICENSE OR WINE BY THE DRINK LICENSE FOR SALES AT LOCATIONS OTHER THAN THE WINERY'S ORIGINAL LICENSED PREMISES AND TO MAKE A TECHNICAL CORRECTION.

S 1380

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE PUBLIC HOUSING PROTECTION ACT; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 55, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE TERMINATION OF TENANCY, TO PROVIDE FOR NOTICE AND FOR PROCEDURE, TO PROVIDE FOR JURISDICTION AND TO PROVIDE FOR THE ADOPTION OF LOCAL REGULATIONS.

S 1381

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO REVENUE AND TAXATION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3642, IDAHO CODE, TO PROVIDE

FOR ANNUAL REVIEW OF CERTAIN EXEMPTIONS AND FOR THE EXPIRATION OF CERTAIN EXEMPTIONS.

S 1382
BY JUDICIARY AND RULES COMMITTEE
AN ACT

RELATING TO DE FACTO CUSTODIANS; AMENDING TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 32, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A PURPOSE, TO PROVIDE FOR DE FACTO CUSTODIANS, TO PROVIDE FOR PETITIONS FOR CUSTODY AND MOTIONS TO INTERVENE BY PERSONS SEEKING DETERMINATIONS THAT THEY ARE DE FACTO CUSTODIANS, TO PROVIDE FOR NOTICE, TO REQUIRE STIPULATED FACTS OR FINDINGS OF FACT THAT A PERSON IS A DE FACTO CUSTODIAN, TO PROVIDE CERTAIN EVIDENTIARY STANDARDS, TO PROVIDE FOR THE APPLICATION OF SPECIFIED STANDARDS AND CONSIDERATIONS RELATING TO A DETERMINATION OF THE BEST INTERESTS OF THE CHILD, TO PROVIDE FOR DE FACTO CUSTODIAN ORDERS, TO PROVIDE FOR ACCESS TO CERTAIN RECORDS AND TO PROVIDE FOR TERMINATION OF CUSTODY ORDERS; AMENDING SECTION 15-5-207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF GUARDIANS OF MINORS, TO PROVIDE THAT DE FACTO CUSTODIANS MAY INITIATE PROCEEDINGS FOR THE APPOINTMENT OF A GUARDIAN, TO REVISE PROVISIONS RELATING TO NOTICE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-5-213, IDAHO CODE, TO REVISE A DEFINITION OF "DE FACTO CUSTODIAN" AND TO REVISE PROVISIONS RELATING TO THE RECOGNITION OF DE FACTO CUSTODIANS RELATING TO STANDING IN CERTAIN PROCEEDINGS.

[S 1375](#), [S 1376](#), [S 1377](#), [S 1378](#), [S 1379](#), [S 1380](#), [S 1381](#), and [S 1382](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 416](#) and [H 417](#), by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[S 1316](#) and [S 1332](#), by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

[S 1325](#) and [S 1347](#), by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

[S 1367](#), by Education Committee, was read the second time at length and filed for third reading.

[H 382](#), as amended in the Senate, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

[S 1252](#), as amended, by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

[S 1320](#), as amended, by Health and Welfare Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senator Cameron was recorded present at this order of business.

On request by Senator Goedde, granted by unanimous consent, [S 1305](#) was referred to the Fourteenth Order of Business, General Calendar.

[S 1339](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1339](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1319](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS—None.

Absent and excused—Andreason. Total - 1.

Total - 35.

Whereupon the President declared [S 1319](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1324](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1324](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1327](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator

Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Cameron disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1327](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 11:30 a.m. until the hour of 10:30 a.m., Tuesday, February 23, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary